THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6980 OF 2006

17.04.2006

Between:

Yamala John, S/o.Samuel

and another

… Petitioners

AND

The Joint Collector, Nellore

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6980 OF 2006

ORDER:

Aggrieved by the proceedings bearing No.Rc.E8.1639/06, dated 03.4.2006, the petitioners filed the instant writ petition under Article 226 of Constitution of India. The Mandal Revenue Officer (MRO), Naidupet passed orders under Section 6 of A.P. Land Encroachment Act, 1905 (the Act, for brevity). Aggrieved by the same, the petitioners preferred appeal before the Revenue Divisional Officer (RDO), Gudur, which was also dismissed. Therefore, they filed a revision petition before the first respondent, namely, the Joint Collector, Nellore. It appears that the first respondent stayed the orders of the RDO in proceedings bearing No.Rc.E8.1639/06, dated 27.3.2006 and directed the Inspector of Survey, Nellore to conduct detailed survey with reference to the records and verify whether the encroachments made by the petitioners are in patta lands or in the Swarnamukhi river poramboke. The Inspector of Survey, Nellore submitted a report dated 01.4.2006 expressing inability to survey the land on the ground that there are agricultural crops in the land in survey No.39. Therefore, the Joint Collector, Nellore, by impugned order informed the petitioners

that they should themselves get survey conducted by convincing the farmers. While doing so, the Joint Collector also observed that if no evidence is produced by 10.4.2006 by the petitioners after getting the survey conducted, stay granted on 27.3.2006 stands vacated.

After hearing the learned Counsel for petitioners and learned Assistant Government Pleader for Revenue (General), this Court is of considered opinion that the impugned order passed by the Joint collector is irrational. When the first respondent himself directed the Inspector of Survey to conduct survey and such survey could not be completed alleged for the reason that there are crops, the Joint collector should rely on some other evidence, like revenue records, to come to the conclusion whether the encroachments made by the petitioners are in patta lands or in the Swarnamukhi river poramboke. If the survey could not be completed, the same cannot be ground to vacate the earlier order of stay. For this reason alone, the impugned order is set aside and the matter is remitted to the Joint Collector, Nellore to dispose of the revision petition filed by the petitioners within a period of four weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

April 17, 2006

NOTE:

Dispatch order copy by

18.4.2006.

(By order)

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